

ENTERED

April 29, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,

VS.

HECTOR GAITAN,

Defendant.

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CRIMINAL ACTION NO. 2:18-CR-358-1

ORDER

Pending before the Court is Defendant Hector Gaitan's Motion for Release to Home Confinement. D.E. 60.

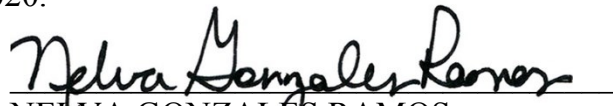
In 2018, Defendant pled guilty to conspiracy to transport undocumented aliens and was sentenced to 36 months' imprisonment. He has served approximately 24 months and has a projected release date of November 25, 2020. Defendant states that he is currently pending transfer to a halfway house to finish his sentence. He moves the Court to order that he instead be allowed to complete his sentence on home confinement with an ankle monitor at his parents' house. In support of his motion, Defendant states that he wishes to be with his ailing mother, who suffered a heart attack in 2017. He also fears contracting COVID-19 while incarcerated.

The BOP has exclusive authority to determine where a prisoner is housed. 18 U.S.C. § 3621(B). Defendant's initial remedy to challenge this determination is by administrative action within the BOP. The proper vehicle to thereafter challenge the BOP's administrative decisions is a petition pursuant to 28 U.S.C. § 2241, which must be filed in the same district where the prisoner is incarcerated. *See Pack v. Yusuff*, 218 F.3d

448, 451 (5th Cir. 2000). Defendant is currently incarcerated in Beaumont, Texas, which is located in the Eastern District of Texas. Thus, assuming Defendant remains incarcerated in Beaumont, he should file any § 2241 petition in that court after first exhausting his administrative remedies.

Accordingly, Defendant's Motion for Release to Home Confinement (D.E. 60) is **DENIED**.

ORDERED this 29th day of April, 2020.


NEELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE